

# KENT COUNTY WATER AUTHORITY

## MINUTES OF THE MEETING OF THE BOARD

December 20, 2012

A regular meeting of the Board of Directors of the Kent County Water Authority was held on the 20<sup>th</sup> day of December, 2012, at 3:30 p.m. at the offices of the Authority in West Warwick, RI, in the Joseph D. Richard Board Room.

Chairman Boyer opened the meeting at 3:30 p.m. Board Members Vice-Chairman Masterson, Mr. Giorgio and Mr. Inman were present together along with the General Manager Timothy J. Brown, legal counsel Patrick J. Sullivan, Esq., as well as Mr. Duchesneau and Jo-Anne Gershkoff. Chairman Boyer informs the board that Mr. Gallucci reports a prior commitment. Mr. Sullivan led the group in the pledge of allegiance.

### APPROVAL OF THE MINUTES

The minutes of the regular board meeting of November 15, 2012 were presented for approval. Mr. Masterson moved passage, seconded by Mr. Giorgio and the minutes were unanimously approved.

### **GUESTS**

#### **3:30 p.m. High Service Requests:**

##### **Old North Road, Coventry, Lots 28 and 30 – West Bay Homes**

The General Manager presented the board with the high service request of West Bay Homes for two lots on Old North Road. Mr. Brown reports. The General Manager reports no technical issues with the petition.

It was moved by Mr. Inman, seconded by Mr. Giorgio, to conditionally approve the request for water supply to both lots on Old North Road in Coventry with the following conditions in lieu of a moratorium:

1. The Kent County Water Authority is not a guarantor of water supply for this or any other approval and KCWA can only supply water reasonably available to it and therefore any applicant/customer of KCWA understands that any third-party commitments made by an applicant/customer are subject to the reasonable availability of water supply and limits of the existing infrastructure to support service.
2. A deficient condition associated with accelerated commercial and residential development exists in the area serviced by the KCWA. The KCWA is in the process of

planning for additional water supply and therefore delays or diminution in service may occur if the water supply is unavailable or unable to produce water sufficient to service the customers KCWA.

3. Ventures, commitments or agreements are at the applicant's sole risk if supply for existing infrastructure is found to be insufficient to support service. The applicant may afford the authority with system improvements to facilitate adequate service.
4. The applicant shall file a formal single-family home application. The applicant/customer understands that any undetected error in the application or an increase or change in demand as proposed, which materially affects the ability to supply water to the site, will be the responsibility of the applicant/customer and not the KCWA.
5. Only conservation-wise plumbing fixtures are to be installed including, but not limited to, low flow shower heads, low flow toilets and low flow aerators on faucets.
6. If irrigation systems are installed, they must be supplied by a private well. Xeriscape landscaping technique and/or proper planting bed (high water holding capacity) soil preparation shall be employed throughout the project.

Upon Motion made, and duly seconded, and unanimously voted,

VOTED: That based upon health and safety concerns to conditionally approve the request for water supply to service lots 28 & 30 on Old North Road in Coventry with the following conditions in lieu of a moratorium:

1. The Kent County water Authority is not a guarantor of water supply for this or any other approval and KCWA can only supply water reasonably available to it and therefore any applicant/customer of KCWA understands that any third-party commitments made by an applicant/customer are subject to the reasonable availability of water supply and limits of the existing infrastructure to support service.
2. A deficient condition associated with accelerated commercial and residential development exists in the area serviced by the KCWA, the KCWA is in the process of planning for additional water supply and therefore delays or diminution in service may occur if the water supply is unavailable or unable to produce water sufficient to service the customers KCWA.
3. Ventures, commitments or agreements are at the applicant's sole risk if supply for existing infrastructure is found to be insufficient to support service. The applicant may afford the authority with system improvements to facilitate adequate service.
4. The applicant shall file a formal single-family home application. The applicant/customer understands that any undetected error in the application or an increase

or change in demand as proposed, which materially affects the ability to supply water to the site, will be the responsibility of the applicant/customer and not the KCWA.

5. Only conservation-wise plumbing fixtures are to be installed including, but not limited to, low flow shower heads, low flow toilets and low flow aerators on faucets.

6. If irrigation systems are installed, they must be supplied by a private well. Xeriscape landscaping technique and/or proper planting bed (high water holding capacity) soil preparation shall be employed throughout the project.

## INTRODUCTIONS

General Manager Brown introduces the new engineer, Mr. David Simmons, to the board. The board welcomes Mr. Simmons to his new employment and wishes him well.

## LEGAL

Legal counsel Patrick J. Sullivan reports that he had success with Commerce Park companies at the Centre of New England in reaching an agreement as previously authorized by the board for the arrearage. He further reports that he delivered two checks for \$10,000.00 each to the General Manager, one for the November 2012 prior agreement and one for the first installment pursuant to the Consent Judgment. Mr. Sullivan reports the lawsuit filed and the remaining legal documents, signed by both him and the attorney for all the Center of New England defendants, filed with the Kent County Superior Court.

Mr. Brown adds that the Authority has not received the second payment due on the installment agreement as of the date of the meeting. It was due on December 14, 2012. A discussion ensued about remedies the Authority has to collect under the judgment. Mr. Sullivan reports that the defendants are in contempt of the judgment and face a variety of penalties, including the potential for attorney's fees. Mr. Brown reports that proceeding in court sometimes takes a lot of time, and suggests that legal counsel contact the defendants for an explanation.

Mr. Inman observes that Mr. Cambio already collects for the water charges and presumably uses the funds for other purposes. Mr. Masterson suggests notice be sent by legal counsel to the tenants of the imminence of a water shutoff for nonpayment, which is collectively agreed to by the board. Chairman Boyer agrees and asks legal counsel to contact Mr. Cambio and to follow up with notice to the tenants of the Centre of New England.

Mr. Sullivan adds that one of the several defendants in the Centre of New England has recently filed for protection in the United States Bankruptcy Court for the District of Rhode Island. That company is Commerce Park Associates 13, LLC

In addition, Mr. Sullivan updates the Board on the Central Coventry Fire District receivership with the fact that their budget woes continue, however they are collecting taxes.

Mr. Brown advises that the CCFD has paid approximately \$45,000.00 of their outstanding bill, however they still owe \$34,000.00 in fees.

### **Director of Finance Report (Attachment “A”)**

Jo-Ann Gershkoff, Finance Director, explained and submitted the financial report. She introduced and explained the Statement of Cash Location FY 2012-2013 (through November 2012) and the Statement of Revenues, Expenditures and Changes in Fund Balance as of October 31, 2012 attached as exhibit “A”. A thorough discussion ensued by the board with regard to the sales and revenue.

Chairman Boyer moved and seconded by Mr. Masterson to accept the reports and attach the same as an exhibit and that the same be incorporated by reference and be made a part of these minutes.

Upon Motion duly made and seconded, it was unanimously,

VOTED: That the Statement of Cash Location FY 2012-2013 (through November 2012) and the Statement of Revenues, Expenditures and Changes in Fund Balance as of October 31, 2012 attached as exhibit “A”, be approved as presented and be incorporated herein and are made a part hereof.

### **Point of Personal Privilege & Communication**

Chairman Boyer asked that the minutes reflect his appreciation to Cindy Heard, Beth Bate, Lisa Salisbury, Nicole Jacques, and the General Manager, Mr. Brown, for assisting in the absence of the Finance Director for six to eight weeks. He thanked them for taking the lead and pitching in during the absence of the Finance Director and the board joined him in commending them for their team effort over and above their normal duties.

Next, Chairman Boyer announced that he and Mr. Brown had spoken about the topography the Authority has relating to the Station Fire site, and had volunteered to donate it to the [unclear what organization].

Finally, Chairman Boyer wished fellow board members as well as the staff, happy holidays. He thanked all for the success of the Authority under the stewardship of General Manager Brown, and thanked the employees for all working together and providing a real team effort.

### **GENERAL MANAGER/CHIEF ENGINEER’S REPORT**

#### **GENERAL:**

#### **Restricted Operating – Positions and Our Reply**

General Manager reports that the filing was in on the 18<sup>th</sup> of December, 2012. He also advised that the feedback he received from Division was not what he expected. He indicated that the position of Division may not be what the Authority was told relative to the purpose of the

restricted receipt account was. Mr. Brown indicates that the Authority does not want a rehearing. He indicates this is about the CPI and the revenue requirement they gave to us. He indicates that if that isn't the case, then there may be no point in continuing to have a restricted receipt account.

### **CCFD Receivership – KCWA Billings**

General Manager Brown reports that Central Coventry Fire District has paid down their balance. He reports a payment of \$45,000.00, leaving a balance of \$34,000.00.

### **Division Hearing – Service Availability – Appeal**

General Manager reports that this case involves a service issue on Deer Run concerning the availability of water and the authority's policies and regulations for serviceability. Mr. Brown indicates he is unhappy with the Division's case. He indicates that the decision was handed down the day before the meeting. He reports that the decision went against the position of the Authority. He reports that the decision was not unexpected, though. Mr. Brown went on to say that the decision puts the Authority in a difficult position going forward. He thinks an appeal is necessary. He reports that the decision essentially says that the Department of Health regulations simply do not matter.

Chairman Boyer asks legal counsel if the matter is appealed, can the appeal be later withdrawn. Legal counsel replies that yes, it can be withdrawn. Chairman Boyer observes that Division indicates that our regulations have no validity. Mr. Masterson queries whether we could supply pumps in the event the pressure goes below twenty pounds? Mr. Brown replies that pumps are not allowed under our regulations. Mr. Brown indicates the decision orders the Authority to connect. He observes that it appears the answer was reached, then the decision written affirming the answer.

Mr. Brown goes on to say that he believes that the pressure will drop below twenty pounds, and this puts them in a bad spot with the Department of Health. Chairman Boyer asks legal counsel to review the decision, to which legal counsel gives his assent. Mr. Brown adds that if there is an appeal, the order to connect is stayed until a final decision on the appeal is rendered.

Mr. Inman moved and seconded by Mr. Masterson to appeal the decision in IN RE: DOCKET NO. D-111-45 COMPLAINT FILING BY GREGORY M. DECUBELLIS AGAINST THE KENT COUNTY WATER AUTHORITY.

Upon Motion duly made and seconded, it was unanimously,

VOTED: That the General Manager is instructed to appeal the decision in IN RE: DOCKET NO. D-111-45 COMPLAINT FILING BY GREGORY M. DECUBELLIS AGAINST THE KENT COUNTY WATER AUTHORITY.

## **642 Washington Street, Status of Engineering Review**

General Manager Brown discussed the situation that was initially brought to the board's attention at the last monthly meeting. Mr. Brown authorized our consultant to approach the Department of Health and the Department of Environmental Management why they allowed the situation to remain. He reports CNE engineer Tim Nicholson has been assigned the task. He indicates that contaminated soil remains around our water main, which is a serious situation that needs a resolution. He fears that the issue will come back on us, and that it will be our problem. He suggests shutting that section of the main down if we have to.

Chairman Boyer indicates his surprise at that level of contamination, and reports that main feeds Pilgrim Ave. and Laurel Ave. areas in Coventry. He suggests coming in from the other side, and although there may be some fire issues, we should be able to deal with the shut off temporarily.

## **IFR 2009B Industrial Lane, West Warwick, Paving Issue.**

A discussion ensued regarding this street and the plans after the Authority's work had been done. Mr. Brown indicates that the plans showed temporary pavement only, as the road is itself falling apart.

Chairman Boyer indicates that the West Warwick Town Council had asked him to attend a town council meeting to answer why Industrial Lane was not going to be paved curb to curb as required in their subdivision regulations. He explained to the town council that the road is in horrible shape and needs repair. He reports that the council hired Garofalo and Associates to redesign the road, and to pave it curb to curb now would be a mistake because of the poor base existing now. Both the town's plans and the Authority's plans for the road contradicted each other. He goes on to report that the town asked for assistance in paving the road. Chairman Boyer indicates that the price to pave the roadway is \$37,600.00 and he suggested that the Authority escrow that amount, and if the town goes ahead with the paving of the road, then the money would be released to the town. He suggested that the town be given two (2) years to accomplish this or the money reverts back to the Authority.

Mr. Giorgio reiterates the fact to place that amount into escrow, and if not done within the two (2) years, then the deal is off. He goes on to say that he is upset with the Town Council President as he tried to make it look like the board had a duty to do the curb to curb paving and simply didn't. Chairman Boyer reminded the board that the Authority paved seventy-nine roads in West Warwick for the taxpayers.

General Manager Brown added that if the Authority gave them the money up front, it would disappear and there would be no road. If the Authority paved the road, it would be torn up within a year, so he agreed with the escrow agreement.

Mr. Inman reiterated the position of Mr. Brown.

Mr. Giorgio moved and seconded by Mr. Masterson place \$37,600.00 into escrow for a period of not longer than two (2) years, and if Industrial Lane in West Warwick was repaved, then the

Authority is to release the funds to the Town of West Warwick, and to have legal counsel develop the escrow agreement to accomplish this.

Upon Motion duly made and seconded, it was unanimously,

VOTED: the General Manager place \$37,600.00 into escrow for a period of not longer than two (2) years, and if Industrial Lane in West Warwick was repaved, then the Authority is to release the funds to the Town of West Warwick, and to have legal counsel develop the escrow agreement.

### **Cross Connection Surveys**

General Manager Brown reports that state law requires cross connection surveys of our customer base. In January, the Authority will begin with reviewing all commercial and industrial customers for their compliance with the law. It will begin with known backflow preventers installed and then all others. This will be followed up with advice on corrective action to those who need it to comply.

### **CAPITAL PROJECTS:**

#### **CIP 1C Mishnock Well Treatment Plant and CIP 1B Mishnock Transmission**

The General Manager reports the project is moving along quite well. He estimates, although the project is behind schedule, it is projected to be completed in April 2013. He went on to say he would not consider liquidated damages as of this point in time, and will examine if the Authority was truly damaged as a result of the extension of the schedule.

He adds that startup is scheduled for the beginning of next year, and that the high service transmission main has been tested and chlorinated. In addition, paving has been completed.

### **INFRASTRUCTURE PROJECTS**

#### **IFR 2009B (Construction Status)**

The General Manager reports that construction is complete with final payment remains.

#### **IFR 2010A (Construction Status)**

The General Manager reports that construction is moving along well on this project. The main installation is complete at this point, and it awaits final pressure testing. When samples pass, services will be installed. Meadow Road, Garden Lane and County Lane service has been activated this year and restoration of pavement will occur next year. The O'Donnell Hill area in Warwick is awaiting sampling results and should be completed by winter of this year, with final paving next year.

#### **IFR 2010B (Construction Status)**

The General Manager informs the board that the contract has been executed.

### **Quaker Lane Pump Station Upgrade (Construction Status)**

The General Manager reports that construction of the wall has been completed, and a revised schedule is being reviewed. With a delay of 24 weeks on the pump delivery, this project requires further review. Bypass pipe tapping is scheduled for the following week, the electric transformer will be installed and activated, and then the site will be secured for the winter. Startup of construction is scheduled for March, 2013, with expected completion in June, 2013.

### **Tech Park Storage Tank Painting**

The General Manager reports to the board that this project should be rebid at the beginning of next year.

### **Water Street Replacement (Construction Status)**

The General Manager reports that the water line will be replaced by winter, as the temporary service must be removed so it doesn't freeze. He reports that the project should be complete this year, with paving next year. It is a joint project by the Authority and the Town of East Greenwich. He reports receiving no report this week, and that the water line was moving forward. Additionally, construction of the sewer has begun.

Mr. Masterson reports that they were digging in front of the Harborside Restaurant last night.

Chairman Boyer ended the meeting by suggesting that the board must take up the issue of a new facility at some point in time, indicating the Authority has outgrown its current residence. There was general agreement by the board.

There being no further business before this meeting, on motion duly made by Mr. Inman, seconded by Mr. Giorgio and carried, the meeting was adjourned at 4:35 p.m.

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Legal Counsel